



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

RCH/SPN/HDM/CRH
F. #2018R01309

*271 Cadman Plaza East
Brooklyn, New York 11201*

September 21, 2022

By ECF

The Honorable Brian M. Cogan
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Thomas Joseph Barrack, et al.
Criminal Docket No. 21-371 (S-1) (BMC)

Dear Judge Cogan:

The government writes to request clarification of the Court's proposed order for peremptory strikes. Yesterday, the Court stated that there would be "four rounds," and that "Defendants will go first and use two; the Government will use two, and we'll go back and forth." See Sept. 19, 2022 Trial Tr. at 3.

It is the government's experience in prior trials that each round typically follows a "2-and-1" approach—the defendants makes two strikes and the government makes one, and then the order is reversed (i.e. the government then makes one strike and the defendant makes two). The government understood this to be the past practice of the Court as well. See United States v. Farekh, No. 15-CR-268 (BMC), Trial Tr. at 177:4-21 (attached as Exhibit A) ([T]he way we're going to proceed is we're going to alternate rounds, with the government going first. So the government will do one peremptory then the defendant will do two peremptories, then in the next round the defendant will go first and do two peremptories. The government will go last and do one peremptory.").

To the extent the Court's plans differed from this past approach, the government respectfully requests that the Court instead consider the "2-and-1" method that it used previously. The government will of course be prepared for whatever approach directed by the Court .

Respectfully submitted,

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Clerk of the Court (BMC) (by ECF)